From:	Outwin-Beals, Brandi@Waterboards
To:	Hagan, Catherine@Waterboards
Cc:	Barker, David@Waterboards; Lim, Joann@Waterboards; Neill,; Schwall, Kristin@Waterboards; Rodriguez, Vicente@Waterboards; Stuber, Robyn; Marincola, JamesPaul; Smith, DavidW
Subject:	RE: Test for Significant Toxicity question
Date:	Friday, March 06, 2015 5:04:06 PM

All-

I spoke with Robyn Stuber, USEPA, (cc'd to ensure that I am accurately summarizing our conversation) about this today, and she suggested that Catherine contact Nicole Kenzi of OCC to discuss. As I understand it, USEPA withdrew their support of the alternative test procedure (ATP) when using the TST statistical approach (namely, 1 effluent concentration and a control concentration rather than 5 effluent concentrations and a control concentration) and not the use of the TST statistical approach itself. In fact, it's my understanding that at least RB4 is continuing to apply the TST statistical approach routinely. Additionally, it's my understanding that USEPA requires that we set a limit for toxicity if there is RP, that we use chronic toxicity over acute toxicity (assuming RP for chronic toxicity) and when no mixing zones/dilution credits apply, and that we need not require both because (as we know) the acute effects will be measured with the chronic test.

This is my understanding of what the NPDES regulations require:

1. We must perform an RPA for acute and chronic toxicity.
2. If there's RP, we must include a limit with a preference for chronic over acute. USEPA will not make us use a specific statistical approach, but we must choose a statistical approach to regulate toxicity, and we have chosen the TST.
3. If there is a limit, the permit must be clear about why there's a limit (RP with supporting documentation - Joann has an example of this for Padre Dam and we can look at the San Jose Creek WRP permit in RB4).
4. Because using only average limits is not protective of acute or very toxic chronic effects, most permits should include both MDELs and AMELs for protecting water quality standards with an explanation as to why these limits are being applied. with specific references to 40 CFR 122.44(d)(1) and 40 CFR 122.45(d). In certain instances, only MDELs may be applied so long as it's justified, for example storm water. Again, we can look at the RB4 permits and the Las Gallinas permit for RB2 for examples of language for the fact sheet. With this in mind, the Padre Dam permit should have chronic toxicity MDELs and monthly median effluent limits set to quarterly monitoring at point 001A. I need to look more into what to do at 001B, based on the requirements of the General Aquatic Pesticide Permit.
5. If there's no RP, we do not need to include a limit. However, we do need to continue monitoring to determine RP in the future. If we are confident that no mixing zones/dilution credits will apply in the future, only chronic monitoring need be required. For majors, it's best to use monthly or quarterly monitoring, depending on the site-specific conditions and our best professional judgement.

Robyn will make sure to review the HARRF-Escondido Creek permit that we sent yesterday to Jamie.

Thanks-
Brandi

From: Hagan, Catherine@Waterboards
Sent: Tuesday, March 03, 2015 9:56 AM
To: Neill, Ben@Waterboards
Cc: Outwin-Beals, Brandi@Waterboards; Barker, David@Waterboards
Subject: RE: Test for Significant Toxicity question

Hi Ben and All,

I am still looking into the TST questions and will follow up with OCC management, but I did learn that

EPA withdrew their approval of the TST method, possibly in connection with the litigation against them in Region 4. Attached is the withdrawal letter.

Catherine.

From: Neill, Ben@Waterboards
Sent: Friday, February 13, 2015 4:55 PM
To: Hagan, Catherine@Waterboards
Cc: Outwin-Beals, Brandi@Waterboards; Barker, David@Waterboards
Subject: Test for Significant Toxicity question

Hi Catherine,

Attached is the letter from USEPA declaring that the Test for Significant Toxicity is approved as an alternate test procedure.

TST results are reported as Pass/Fail based on criteria. The results are not a number, such as what is reported when doing the NOEC-LOEC toxicity test.

The Ocean Plan has water quality objectives for toxicity based on the numeric results of the NOEC-LOEC toxicity test.
In Table 1, page 7, specifies a Water Quality Objective for Acute Toxicity as a Daily Maximum of 0.3 TUa and for Chronic Toxicity as a daily maximum of 1 TUc.
I'm not sure how the numeric WQO resulting from the NOEC-LOEC toxicity test can be translated to a Pass/Fail resulting from the TST.

My question is …

Although the TST is an approved test procedure, Is TST also considered an approved alternate water quality standard from what is listed in the Ocean Plan? or does it make a difference?

Ben Neill
Office: (619) 521-3376